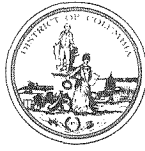


# Government of the District of Columbia

## ZONING COMMISSION



ZONING COMMISSION ORDER NO. 481-A  
Case No. **85-10M/79-14F**  
(PUD Modification @ Hillandale)  
April 11, 1994

By Z.C. Order No. 305 dated January 10, 1980, the Zoning Commission for the District of Columbia approved a second-stage review of an application from the Hillandale Development Corporation for a planned unit development (PUD) for property located at 3905 Reservoir Road, N.W.

The PUD site comprises approximately 42 acres of land, is zoned R-1-B, and is known as "Hillandale". The site is bounded on the east by 39th Street, on the south by Reservoir Road, on the west by the French Chancery and Glover-Archbold Park, and on the north by Whitehaven Parkway.

The PUD approval was for the development of a residential project, which included 268 single-family dwelling units, a maximum floor area ratio (FAR) of 0.40, a maximum height of 40 feet, and a maximum lot occupancy of 21 percent.

By Z.C. Order No. 412 dated November 21, 1983, the Zoning Commission modified Z.C. Order No. 305 to extend the validity of the PUD for 10 years; that is, until January 10, 1994.

By Z.C. Order No. 481 dated January 13, 1986, the Zoning Commission also modified Z.C. Order No. 305 to reduce the number of dwelling units to 267, and to permit development phasing of the project, tree preservation controls, and revised architectural design and site plan treatment.

The R-1-B District permits matter of right low density development of single-family residential uses for detached dwellings with a minimum lot area of 5,000 square feet, a minimum lot width of 50 feet, a maximum lot occupancy of 40 percent, and a maximum height of three stories/40 feet.

In July 1993, Kettler Brothers, Inc., through its affiliate and the applicant (Hillandale Homes, Inc.), took title to the PUD site and resumed project funding and development. Currently, 45 of the 267 dwelling units have not been completed.

Pursuant to 11 DCMR 2406.10, the Zoning Commission, "for good cause" may extend the validity of a PUD upon a request of the applicant being made prior to the expiration of the PUD.

By letter dated December 10, 1993, counsel for the applicant requested a five-year extension of the validity of Z.C. Order Nos. 305, 412 and 481. The letter indicated that the applicant cannot complete the development and sale of the remaining townhouses, or the remaining common area and infrastructure improvements before the PUD expires on January 10, 1994. The letter further indicated the following:

1. Currently, one group of 10 townhouses is under construction and a building permit application is pending to construct another group of 11 townhouses; and
2. Given the continued sluggishness in the new house sales market, an additional 5-year extension of the PUD is necessary.

By memorandum dated December 15, 1993, the District of Columbia Office of Zoning (OZ) referred the applicant's request to the District of Columbia Office of Planning (OP) for an analysis of whether any amendments to the Zoning Regulations and Map, or to the Comprehensive Plan since the Zoning Commission initially decided this case will affect the request.

By memorandum dated February 28, 1994, OP recommended approval of the applicant's request. OP, in part, stated the following:

1. The current time extension request in this application does not change any of the conditions of the previous PUD orders, including the height limit, the floor area ratio (FAR), the gross floor area, the lot occupancy, the number of dwelling units, or the uses permitted. The zoning applicable to the site (R-1-B) has not changed since the PUD was approved; and
2. The Generalized Land Use Map of the Comprehensive Plan approved in 1985 includes the subject site in the low density residential land use category. The Comprehensive Plan Amendments Act of 1989, which became effective on May 23, 1990, did not change the lot density residential land use classification of the site. Council Resolution 9-275, dated July 7, 1992, which

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"corrected" the Generalized Land Use Map, did not change the land use classification of the site.

Advisory Neighborhood Commission (ANC) 2E, by letter dated March 2, 1994, raised a concern about the possible violation of a tree preservation zone, pursuant to Z.C. Order Nos. 305, 412 and 481. ANC-2E recommended one of the following:

1. Defer any action on the application until such time as the applicant shall bring the development into compliance with the tree preservation zone created by prior PUD order; or
2. If the Commission is inclined to grant the extension, that it condition such extension upon the settlement of the applicant and the Hillandale Homeowners Association of all issues between them relating to and arising from the wrongful destruction of the tree preservation zone including, but not limited to: (a) landscaping; (b) timing for completion of the access road; (c) screening; and (d) Board of Directors membership and voting.

Counsel for the Hillandale Homeowners Association (HHA), by letter dated January 3, 1994, requested the Zoning Commission to defer its consideration of the applicant's request until the Zoning Commission's February 1994 meeting, so that the applicant and HHA can work out a solution to the tree preservation issues.

The Embassy of the Republic of France, by letter dated February 4, 1994, opposed the PUD extension request because of security concerns it has about the redevelopment of the mansion tract portion of the PUD site.

The Burleith Citizens Association (BCA) by letter dated February 6, 1994, opposed the PUD extension request because of possible violations of vehicular **signage** at the entrance of the PUD site, and violations of the protected tree sanctuary.

On March 14, 1994 at its regular monthly meeting, the Zoning Commission considered the applicant's request, the OP report, and the letters from ANC-2E, HHA, BCA and the French Government, and discussed the concerns of security, possible zoning violations, and the appropriate mechanism to address those concerns.

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The Director of OZ advised the Zoning Commission that, in its consideration of PUD extension requests, the Commission should consider those requests based on the PUD, as previously approved, and not based on the PUD, as implemented or developed.

The Director of OZ also reminded the Commission that the enforcement of Z.C. orders is the responsibility of the Zoning Administrator.

At that same meeting, the Zoning Commission determined that it would refer the concerns about possible zoning violations, to the Zoning Administrator for investigation through the enforcement process. The Commission also determined that it has already addressed the concerns of the French Government about security in a previous PUD proceeding.

The Commission concurs with the recommendation of OP, and believes that it has appropriately addressed the concerns of ANC-2E and others about possible zoning violations.

The Zoning Commission believes that after considering and balancing all of the issues related to this PUD extension request, its decision is appropriate and in the best interest of the District of Columbia, and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.


In consideration of the reasons set forth herein; the Zoning Commission for the District of Columbia hereby orders that the validity of Z.C. Order Nos. 305, 412 and 481 be EXTENDED for a period of five (5) years; that is, until JANUARY 10, 1999. Prior to the expiration of that time, the applicant shall file an application for a building permit and start construction pursuant to 11 DCMR 2406.8 and 2406.9.


Vote of the Zoning Commission taken at the monthly meeting on March 14, 1994: 5-0 (Maybelle Taylor Bennett, William L. Ensign, William B. Johnson, and John G. Parsons, to approve the extension, and Jerrily R. Kress, to approve by absentee vote).

This order was adopted by the Zoning Commission at the monthly meeting on April 11, 1994 by a vote of 5-0 (John G. Parsons, William L. Ensign, Jerrily R. Kress, and Maybelle Taylor Bennett, to adopt as corrected, and William B. Johnson, to adopt by absentee vote).

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In accordance with the provisions of 11 DCMR 3028, this order is final and effective upon, publication in the D.C. Register; that is, on JUN - 3 1994.

  
MAYBELLE TAYLOR BENNETT  
Chairperson  
Zoning Commission

  
MADELIENE H. ROBINSON  
Director  
Office of Zoning

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